

3618. Misbranding of cottonseed salad oil. U. S. v. 23 Cases of Cottonseed Salad Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 5695. I. S. Nos. 9539-h, 9540-h, 9541-h, 9542-h. S. No. E-32.)

On April 24, 1914, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 23 cases of cottonseed salad oil, remaining unsold in the original unbroken packages at Pittston, Pa., alleging that the product had been transported from the State of New York into the State of Pennsylvania, 4 cases, each containing 24 cans of the product, having been received on or about November 3, 1913, and 4 cases, each containing 12 cans of the product, having been received on the same date, 5 cases, each containing 48 cans, having been received on or about March 24, 1914, and 10 cases, each containing 12 cans of the product, having been received on or about April 1, 1914.

The four cases first mentioned were labeled in part: "Luna Brand 24 Tins Sutherland and McMillan, Pittston, Pa." Each of the 24 cans in each of said cases was labeled: "Marca Registrata, Net Contents 1/2 Gal. Olio Sopraffino Di Cotone, Marca Luna Crescente Brand—Finissimo, Extra Quality, Genuine Cottonseed Salad Oil."

It was alleged in the libel that each of said 96 cans or tins in this shipment was 12.6 per cent short measure and 11.4 per cent short weight, and the statements of the contents of said 96 cans or tins were false and misleading, and said statements and goods were in violation of section 8 of the act of Congress known as the Food and Drugs Act, first general paragraph and paragraphs 2 and 4 under foods.

The four cases next referred to were labeled in part: "Luna Brand, 12 tins Sutherland & McMillan, Pittston, Pa." Each of the 48 retail cans was labeled: "Marca Registrata, Net Contents 1 gal. Olio Sopraffino Di Cotone, Marca Luna Crescente Brand—Finissimo, Extra Quality, Genuine Cottonseed Salad Oil."

It was alleged in the libel that each of the said 48 tins or cans was 14.1 per cent short measure and 16.2 per cent short weight, and that the statements of contents on said 48 tins or cans of cottonseed salad oil were false and misleading, and said statements and goods were in violation of section 8 of the Food and Drugs Act, first general paragraph and paragraphs 2 and 4 under foods.

The five cases next mentioned were labeled in part: "48 cans Vincitore Salad Oil, Sutherland and McMillan, Pittston, Pa." Each of the 48 tins or cans in each case of this shipment was labeled in part: "Olio Di Cotone—Sopraffino Per—Insalata—Vincitore Brand, Cotton Salad Oil, Extra Quality, L. C. S. Net contents 1/4 gal."

It was alleged in the libel that each of said 240 tins or cans was 15.6 per cent short measure and 16 per cent short weight, and that the statements of contents on said 240 tins or cans of cottonseed salad oil were false and misleading, and said statements and goods were in violation of section 8 of the Food and Drugs Act, first general paragraph and paragraphs 2 and 4 under foods.

The 10 cases next referred to in the libel were labeled in part: "12 cans Vincitore Salad Oil, Sutherland & McMillan, Pittston, Pa." Each of the 120 cans or tins in this shipment was labeled in part: "Olio Di Cotone—Sopraffino Per—Insalata—Vincitore Brand, Cotton Salad Oil, Extra Quality, L. C. S. Net Contents 1 Gallon." About 50 per cent of the tins or cans contained in the cases bore a small paper sticker on the top with the inscription "105 Oz. net."

It was alleged in the libel that each of the 120 tins or cans was 13.4 per cent short of 1 gallon by measure and 14.3 per cent short of 1 gallon by weight, and that said statements of contents on the 120 tins or cans of cottonseed salad oil were false and misleading, and the said statements and goods were in violation of section 8 of the Food and Drugs Act, first general paragraph and paragraphs 2 and 4 under foods.

It was further alleged in the libel that the brands and labels and representations on the 504 tins or cans of cottonseed salad oil contained in the aforesaid 23 cases, more particularly mentioned and described in the foregoing paragraphs of the libel, were false and misleading, and designed to deceive and mislead the purchaser by purporting and representing the contents of the tins or packages to be of a certain quantity or measure, which, in truth and in fact, was not so.

On June 25, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be sold by the United States marshal.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *March 12, 1915.*